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Administration of justice at the United Nations

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Report of the Internal Justice Council

1. By its resolution 62/228, the General Assembly established the Internal Justice Council to help to ensure independence, professionalism and accountability in the new system of administration of justice. In paragraph 37 (d) of that resolution the Assembly required the Council to provide its views on the implementation of the system of administration of justice to the General Assembly. The report of the Council is hereby transmitted to the Assembly.

2. The report was signed by the members of the Internal Justice Council and submitted to the Secretary-General for transmission to the General Assembly.

(*Signed*) Kate **O'Regan**

(*Signed*) Sinha **Basnayake**

(*Signed*) Jenny **Clift**

(*Signed*) Geoffrey **Robertson**

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Report of the Internal Justice Council on the administration of justice at the United Nations

I. Background

1. The United Nations inherited from the League of Nations an internal justice system that remained in place for 60 years, largely unchanged and unaffected by advances in human rights law, administrative law and good industrial relations practice. It was based on a protracted peer review system that produced non-binding recommendations subject to appeal to the United Nations Administrative Tribunal whose members did not need to be judges or even legally qualified. Over the years, both management and staff realized that the old system needed an overhaul and in 1995 the Secretary-General proposed a radical shift to a fully professional system. In April 2005, the General Assembly at last placed such a reform on the agenda as a matter of urgency and the Secretary-General was instructed to form a panel of external experts to consider a redesign of the system so that it would be independent, transparent, effective, efficient and adequately resourced and ensure managerial accountability (resolution 59/283, para. 49 (a)). The Redesign Panel submitted its report on 28 July 2006, describing the current system as outmoded, dysfunctional, ineffective and lacking in independence; it said that the peer review system, overly dependent upon untrained staff volunteers, had outlived its relevance and that its hidden costs were significant (A/61/205, summary and paras. 6 and 137).

2. By resolutions 61/261 and 62/228, the General Assembly approved the framework for establishment of a new system for the internal administration of justice within the United Nations, much as the Redesign Panel had recommended. The goal was that the new system would be independent, transparent, professionalized, adequately resourced and decentralized (resolution 61/261, para. 4). Professional judges would issue binding Tribunal decisions in a first-instance United Nations Dispute Tribunal. The judges would have at least 10 years' experience in a national jurisdiction prior to appointment, or equivalent. An appeal would lie to a newly established United Nations Appeals Tribunal, staffed by judges, or their equivalents, of at least 15 years' experience in a national jurisdiction prior to appointment. The Redesign Panel regarded the independence of the judges as a key prerequisite for the new system. In this regard, it suggested the creation of an Internal Justice Council to help to ensure independence, professionalism and accountability in the new system (resolution 62/228, para. 35). This would involve, inter alia, compiling a list of persons eligible to be appointed to each judicial position (A/61/205, para. 127). The Secretary-General concurred with the Redesign Panel's recommendation concerning the creation of the Internal Justice Council.

3. Those proposals were accepted by the General Assembly in its resolution 62/228 and the Internal Justice Council was given the following tasks:

(a) To liaise with the Office of Human Resources Management on issues related to the search for suitable candidates for the positions of judges, including by conducting interviews as necessary;

(b) To provide its views and recommendations to the General Assembly on two or three candidates for each vacancy in the Dispute Tribunal and the Appeals Tribunal, with due regard to geographical distribution;

(c) To draft a code of conduct for the judges, for consideration by the General Assembly;

(d) To provide its views on the implementation of the system of administration of justice to the General Assembly.

The Internal Justice Council was established by May 2008. Its current members are the distinguished external jurists Sinha Basnayake (Sri Lanka, nominated by management) and Geoffrey Robertson QC (United Kingdom, elected by staff) with Jenny Clift (Australia) a Senior Legal Officer in the International Trade Law Division of the Office of Legal Affairs as the staff representative. The current Chair is Justice Kate O'Regan, whose term of office as a judge of the Constitutional Court of South Africa ended in October 2009. The management representative from May 2008 to June 2009 was Maria Vicien-Milburn (Argentina) and from August 2009 until July 2010 Martha-Helena Lopez (Colombia), Director of the Strategic Planning and Staffing Division of the Office of Human Resources Management, who contributed during her tenure to the preparation of the present report. It is expected that a new management representative will be appointed shortly.

4. The first task for the Internal Justice Council was to identify suitable candidates for appointment as judges in the new Tribunals. It was fundamental to the Redesign Panel's vision that the judges be selected on merit. Accordingly, the Council advertised widely and received over 250 applications from judges with many years' experience from a large number of countries (see A/63/489, para. 7). These were carefully vetted and the best candidates on paper were invited to interviews and examinations in The Hague. In October 2008, the Council made its report to the General Assembly recommending two candidates for every judicial post. On 2 March 2009, the three full-time judges and two half-time judges of the Dispute Tribunal and the seven judges of the Appeals Tribunal were appointed by the General Assembly (decision 63/417). Subsequently, after the Council produced a supplementary report (A/63/489/Add.1), the Assembly appointed three ad litem judges to the Dispute Tribunal for a 12-month period. The new system of internal justice commenced on 1 July 2009.

5. In January 2010, the Internal Justice Council recommended to the Secretary-General that the terms of the three ad litem judges be extended for a further year (see A/C.5/64/16). On 29 March 2010, the General Assembly extended the tenure of the three ad litem judges for a further year beginning on 1 July 2010 (decision 64/553). One of the three, Judge Michael Adams (Australia), then indicated that for personal reasons he was not available for a further year. The Council then recommended in respect of that vacancy two candidates to the General Assembly (see A/64/791). On 18 June 2010, the Assembly appointed Judge Marilyn Kaman (United States of America) as the third ad litem judge. Judge Kaman took up her position during July 2010.

6. In paragraph 37 (c) of its resolution 62/228, the General Assembly required the Internal Justice Council to draft a code of conduct for the judges, for consideration by the General Assembly. After full consultation with the judges of the Dispute Tribunal and the Appeals Tribunal on the text of the code of conduct, the Council submitted the code of conduct for consideration by the General Assembly at its sixty-fifth session (see A/65/86).

II. Introduction

7. As noted in paragraph 3, the General Assembly in resolution 62/228 required the Internal Justice Council to provide its views on the implementation of the system of administration of justice to the General Assembly. In order to equip itself for this task, the Council has monitored the new system of internal justice closely and members have met with the judges and staff of both Tribunals, in Geneva (twice), Nairobi and New York, and have had full discussions with management and its lawyers (of the Secretariat, the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF) and the United Nations Office for Project Services (UNOPS)), with staff unions and the Office of Staff Legal Assistance and with other role players including the Ombudsman and members of the staff of his office and the Ethics Office. Although the discussions often ranged widely, in view of its mandate, the Council has focused in this report on the views it has formed regarding the functioning of the formal system of justice.

8. The Internal Justice Council is broadly satisfied that the new system has functioned remarkably well, given the inevitable challenges faced in the first year of its operation. It commends the judges of both Tribunals, as well as the staff of the registries and the Office of Administration of Justice for the excellent progress that has been made in the first year. Members of the Council have kept up with the jurisprudence that has been issuing from the Dispute Tribunal and is beginning to issue from the Appeals Tribunal. They note that it has naturally taken time for judges with experience in national systems to acquaint themselves with the rules and practices of the Organization. While in the early days this may have occasioned additional work for all legal representatives, it is the view of the Council that the judges have gained the requisite familiarity and that the effectiveness, fairness, independence and transparency of the new system have not been adversely affected. Inevitably, a transition of this sort has occasioned anxiety and, at times, dismay. The Council is of the view however that the new system is already working well and will continue to improve as all role players become more familiar with it. In this report, which covers the first year of the system's operation, the Council shall make recommendations that, after these consultations, it considers necessary to fulfil the General Assembly's objective of an internal justice system that is independent, transparent, effective, efficient and that ensures managerial accountability (resolution 59/283, para. 49 (a)).

Activities undertaken by the Internal Justice Council

9. In July 2009, the Internal Justice Council held a series of meetings in New York, including with the Executive Director of the Office of Administration of Justice and other staff of that office, the Chief of the Office of Staff Legal Assistance and other staff of that office, representatives of staff unions (the United Nations Staff Union New York, the UNDP/UNFPA/UNOPS Staff Council and the UNICEF Global Staff Association), the Ombudsman and two members of the staff of the Office of the Ombudsman, and a senior staff member of the Ethics Office. It also held a teleconference with all the judges of the Dispute Tribunal; a teleconference with the Registrars of the Dispute Tribunal, the Registrar of the Appeals Tribunal and the Principal Registrar; and a teleconference with the

President of the Appeals Tribunal. The Council also convened a meeting for delegations of Member States that was attended by approximately 30 representatives.

10. In December 2009, the Internal Justice Council held a range of similar meetings in Geneva. It met with the Executive Director of the Office of Administration of Justice, as well as the Registrar of the Geneva Dispute Tribunal, unions representing staff members (members of the United Nations Office at Geneva Staff Coordinating Council and a representative from the UNHCR Staff Association as well as the President of the Staff Union New York), management legal representatives, and all the judges of the Dispute Tribunal (who were holding a plenary meeting in Geneva at the time). It also held teleconferences with the President of the Appeals Tribunal and the Ombudsman and a representative of his staff. Three members of the Council also travelled to Vienna and held meetings with members of the United Nations Staff Union Vienna and representatives of management, as well as with former volunteers and members of the panel of counsel.

11. In February 2010, the Internal Justice Council held a series of meetings in Nairobi. Shortly before the Nairobi meeting, three members of the Council visited Addis Ababa and met with the Deputy Executive Secretary and the Chief of Administration and with members of staff unions and with human resources officers. In Nairobi, meetings were held with judges of the Dispute Tribunal, as well as the Registrar and staff of the Tribunal, members of management from the United Nations Office at Nairobi and funds and programmes, members of staff unions representing staff in Kenya, the staff member in Nairobi of the Office of Staff Legal Assistance and human resources officers from the United Nations Office at Nairobi and funds and programmes. The Council members also had the opportunity of attending a hearing of the Dispute Tribunal.

12. In March 2010, four members of the Internal Justice Council met in Geneva with the judges of the Appeals Tribunal at the first session of the Tribunal. At that time, the Council members were also able to meet with the Geneva judges of the Dispute Tribunal, the Registrars of both Tribunals, and the Registrar of the International Labour Organization Administrative Tribunal and the Chief of the Office of Staff Legal Assistance. The Council members also held videoconferences with senior staff of management in New York from the Secretariat, UNDP, UNFPA, UNICEF and UNOPS and with staff representatives from the Staff Union New York, the UNDP/UNFPA/UNOPS Staff Council and the UNICEF Global Staff Association. In addition to the meetings held, the Council has had the opportunity to study statistics prepared by the Registrars of the Tribunals that illustrate the workflow in the Tribunals.

13. Finally, in July 2010, the Chair of the Internal Justice Council travelled to Nairobi to meet with judges of the Dispute Tribunal who were holding a plenary meeting there. She also chaired a teleconference attended by all judges of that Tribunal; the Under-Secretary-General for Management and several members of her staff; the Ombudsman and the head of mediation services; the Regional Ombudsman, Nairobi; the Chief of the Office of Staff Legal Assistance and the legal officer of that Office in Nairobi; legal counsel of UNICEF and UNHCR; and all the Registrars of the Dispute Tribunal and the Principal Registrar. The purpose of the

teleconference was for different role players to discuss the challenges they were encountering in the new system of justice.

14. Members of the Internal Justice Council are based on four continents. Ordinarily the Council conducts its business by e-mail exchanges and regular teleconferences.

Organization of the present report

15. The new system of administration of justice within the United Nations has started well, as is demonstrated by the statistics that outline the workload of the Tribunals in its first year. Those statistics are to be found in the Secretary-General's report on administration of justice and are not repeated here. The Internal Justice Council, however, has identified a number of challenges that need to be met. The Council has a number of suggestions to ensure that the new system does, indeed, work to its potential and deliver a system of justice that is independent, professional and accountable. In order to set out these suggestions, this report is divided into eight sections: the process of identifying suitable candidates for appointment as judges; the Tribunals, including the registries; the Office of the Executive Director of the Office of Administration of Justice; the Office of Staff Legal Assistance; the Internal Justice Council; the relationship between the formal system and the informal system; the Management Evaluation Unit; and disciplinary matters. A number of recommendations are included, which are summarized at the end of the report.

III. Advertising, interviewing and recommending judges for appointment

16. As a preliminary matter, the Internal Justice Council wishes to make several observations on the process of advertising, interviewing and recommending judges for appointment by the General Assembly. First, the qualifications and expertise for judges, as provided for in paragraph 41 of resolution 62/228, created some uncertainty. The General Assembly determined that in the case of the Dispute Tribunal, candidates should have at least 10 years, and in the case of the Appeals Tribunal, 15 years, of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.[1] The uncertainty concerned whether the reference to equivalency related to administrative law or to the requirement for judicial experience. It should be noted that in some States the types of issues addressed by the Dispute Tribunal are decided by arbitrators and a number of applications were received from such persons. The Council is of the view that such candidates fall within the qualifications mentioned.

17. Secondly, some difficulties were encountered both in identifying suitable procedures to ensure that a wide pool of potential applicants was found and in funding the necessary advertisement of the vacancies. The judges who qualify for these positions are not ordinarily applicants for United Nations or related positions and therefore do not regularly refer to the sources of information typically available on United Nations vacancies. In future, therefore, in order to attract a pool of

[1] See statute of the Dispute Tribunal, article 4, para. 3 (b), and statute of the Appeals Tribunal, article 3, para. 3 (b) (General Assembly resolution 63/253, annexes I and II, respectively).

outstanding candidates reflecting appropriate language and geographical diversity, the Internal Justice Council recommends the wide advertisement of Tribunal vacancies in appropriate journals in both English and French, as well as the dissemination of information relating to the judicial vacancies to Chief Justices and to relevant associations, such as judges' professional associations, if possible, in advance of those vacancies arising.

IV. The Tribunals, including the registries

18. The two Tribunals have been established. The Dispute Tribunal has been functioning for a year in Geneva, Nairobi and New York. The Appeals Tribunal held its first session in March/April 2010 and handed down its first batch of judgements a month later. It held its second session in New York in June/July 2010, and plans a third session for October 2010.

A. United Nations Dispute Tribunal

19. The United Nations Dispute Tribunal is a single Tribunal with permanent seats in three major duty stations, Geneva, Nairobi and New York, each of which is allocated one permanent judge. The General Assembly's decision to locate the Dispute Tribunal permanently in three different duty stations was to give effect to the principle that the new system be decentralized. The Internal Justice Council is persuaded that this decision is correct, but is of the view that the decentralization of the Dispute Tribunal creates challenges that need to be addressed and makes several recommendations in this regard (see paras. 23, 27 and 31 below).

20. From 1 July 2009 to 30 June 2010, 198 new cases were received by the Dispute Tribunal, excluding cases transferred from the previous system of justice. In the same period, 220 cases were disposed of, including cases transferred from the previous system. On 30 June 2010, 290 cases were still pending before the Dispute Tribunal, 168 of which are cases remaining from the old system. Of the 169 cases transferred to the Dispute Tribunal in July 2009, all but 37 have been finalized. Of the 143 cases transferred to the Dispute Tribunal from the United Nations Administrative Tribunal in January 2010, 131 are still pending. From these statistics it can be seen that, in the first year of operation, the Dispute Tribunal judges (six full-time judges, including the three ad litem judges, and two half-time judges) have only just been able to manage the new caseload that is being generated. Although significant progress has been made in clearing the backlog, much work remains to be done in this regard.

1. Need for three additional permanent judges

21. The Internal Justice Council notes that in paragraph 32 of its resolution 63/253, the General Assembly indicated its intention, to carry out at its sixty-fifth session, a review of the statutes of the Tribunals, in the light of experience gained, including on the efficiency of the overall functioning of the Tribunals, in particular regarding the number of judges and the panels of the Dispute Tribunal. In view of that decision and of the statistics concerning the workload of the Dispute Tribunal, the Council takes this opportunity to express its view, one shared by the judges of the Dispute Tribunal, that the current number of judges needs to be maintained to

handle the number of cases being filed. Accordingly, three additional full-time judges need to be appointed when the current terms of the ad litem judges end. If additional judges are not appointed then, and the Tribunal continues with only three permanent full-time judges and two half-time judges, the Dispute Tribunal will rapidly build up a backlog that will prevent it from administering justice promptly. In the Council's view, the result for the new system of internal justice will be disastrous. The support staffing currently provided at each registry for the ad litem judges would need to be retained permanently if three additional permanent judicial posts are established. In making this recommendation the Council has taken into account all factors that might be thought to alleviate the caseload, such as the prospect for speedier disposal once judges are more familiar with the rules and the possibility that, when mediation becomes more attractive, fewer cases will be brought into the formal system. The Council is fairly sure that such improvements will not obviate the need to make the ad litem positions permanent. Should the caseload of the Tribunal diminish in future years to the point that only one judge is required at each seat of the Tribunal, the General Assembly may amend the statute so that judges are not replaced as their terms of office expire. An alternative possibility considered by the Council was to continue to extend the terms of office of ad litem judges each time they expire. However, the Council's view is that judicial independence is threatened by a system whereby judges are repeatedly appointed for short terms and it considers that this possibility does not accord with the principles of the new system of internal justice. The Council also notes that even if it were to advertise and interview for one-year ad litem appointments — which would be a costly exercise — experience suggests that it might be difficult to find judges who are willing to be seconded for a year only to the Dispute Tribunal.

2. Half-time judges of the Dispute Tribunal

22. The two half-time judges already appointed have not been allocated to a particular seat of the Tribunal, but have been deployed in different places as need dictated. The current half-time judges work two three-month sessions per year. In each three-month session, one month is spent at home preparing cases and writing judgements, and two months are spent at one of the seats of the Dispute Tribunal. The fact that half-time judges have worked at different seats of the Dispute Tribunal has been useful. Given the challenges inherent in the decentralization of the Tribunal mentioned above, it has promoted the sharing of experience between the different seats of the Tribunal and facilitated the identification of common problems, as well as the development of common approaches across the three seats of the Tribunal, an issue that is currently a concern to the Internal Justice Council. It has also facilitated the constitution of three-judge panels to hear important matters (see also para. 29 below), as the half-time judges have been able to take up active duty at different seats of the Tribunal as the need has arisen.

(a) Need for additional half-time judge

23. In view of the workload mentioned above and the fact that it is likely to continue at that level, the Internal Justice Council is of the view that, in addition to the appointment of three further permanent judges, consideration should be given to appointing a further half-time judge. An additional half-time judge could foster decentralization in the system (one of the core goals of the new system) by permitting the Dispute Tribunal to hold sessions in duty stations other than Geneva,

Nairobi and New York: for example, major duty stations such as Santiago and Bangkok might hold short sessions annually to dispose of cases arising there. It might also facilitate the hearing of important cases in duty stations where oral evidence is crucial to the issues at stake and videoconferencing and other communication facilities are not adequate for that purpose. An additional half-time judge would also permit the establishment of three-judge panels at each seat of the Dispute Tribunal when the need arises, without requiring additional travel. Although several role players consider that the decision that the Dispute Tribunal be constituted in single-judge panels rather than three-judge panels should be revisited, the Council thinks that this approach could be prohibitively expensive and could contribute to unnecessary delay.[2] Instead the Council considers that the possibility of constituting three-judge panels for important or sensitive matters should be enhanced. The creation of a position for an additional half-time judge, together with the appointment of an additional judge for each seat of the Tribunal, would make it far easier to hold three-judge panels for those cases that warrant them.

(b) Budget for half-time judges

24. A problem has been encountered with the manner in which the half-time judicial positions are funded. At present, the positions are funded at 50 per cent of the full-time positions. This has meant, among other things, that travel for half-time judges from their home to the duty station and back has been inadequately resourced. The Internal Justice Council therefore recommends that the budget allocation be increased to meet the additional costs associated with these posts.

25. Half-time judges must keep in contact with the Dispute Tribunal even when they are not on active duty, in order to keep abreast of the precedents and procedures being used by their full-time colleagues and by the Registrars. Accordingly, the Council suggests that half-time judges be paid a monthly stipend adequate to cover the costs of Internet connectivity, computer use, conference calls and related administrative expenses.

(c) Contractual arrangements for half-time judges

26. For administrative reasons, half-time judges have, during the first year, been "separated" from the Organization when they are not working as judges and "re-entered" each time they recommence work. The Internal Justice Council suggested to the Office of Administration of Justice that a way be found to avoid the administrative work associated with "separation" and "re-entry" every six months, so that the judges are employed from the commencement to the end of their respective terms, be it three or seven years. This would ensure that they remain bound by the terms of the code of conduct when they are not on active service. It would also make clear that judges may continue to perform their tasks as judges when away from a duty station, as well as providing sufficient flexibility to enable those judges to travel to plenary sessions and complete other necessary work outside the strict duration of each active session. The Council understands that a system has

[2] The Redesign Panel recommended that the Dispute Tribunal should be composed of single-judge panels (A/61/205, para. 93), the Secretary-General recommended that it sit in panels of three (A/61/758, para. 19), the Advisory Committee on Administrative and Budgetary Questions considered that single-judge panels would suffice (A/61/815, para. 44), and the Secretary-General again recommended three-judge panels (A/62/294, para. 74).

been devised to achieve this result and records its thanks to the Office of Administration of Justice and the Office of Human Resources Management for their assistance in this regard.

3. Plenary sessions of judges of the Dispute Tribunal

27. To date, the judges of the Dispute Tribunal have held three one-week plenary sessions: the first was an orientation session in July 2009, the second was held in Geneva in December 2009 and the third in Nairobi in June 2010. These sessions are essential to enable the eight judges of the Dispute Tribunal to share their experience, identify and discuss common problems and develop uniform responses to those problems. It also provides the judges with an opportunity to meet with other role players in the different duty stations and from regional centres. In so doing, it enhances the principle of decentralization which is an important goal of the new system. The Internal Justice Council recommends that the travel funding of the Dispute Tribunal be enhanced to permit at least two plenary sessions of the Tribunal annually, preferably on the basis that the plenary meetings are held in turn at the three seats of the Tribunal to support the decentralized nature of the system.

4. Staggering of terms of office of the first group of judges to ensure institutional continuity

28. At present, in terms of paragraph 45 of resolution 62/228, article 4 (4) of the statute of the Dispute Tribunal[3] and article 3 (4) of the statute of the Appeals Tribunal,[4] two of the Dispute Tribunal judges and three of the Appeals Tribunal judges will need to be replaced by June 2012. It is clear from the first year's experience, however, that it takes some time for judges from outside the United Nations to acquaint themselves with the rules and practices of the Organization. In the view of the Internal Justice Council, although the staggering of the terms of office of the judges serves the need of ensuring institutional continuity, it would be preferable for the initial period to be extended from three years to five years to avoid a premature loss of experience and expertise in the formative years of the new system of justice. This recommendation would require a minor amendment to both statutes.

5. Authorization for three-judge panels of the Dispute Tribunal in special cases

29. Article 10 (9) of the statute of the Dispute Tribunal provides that cases will normally be heard by one judge. It also provides that a three-judge panel may be constituted when necessary but only with the permission of the President of the Appeals Tribunal. After discussing this provision with the judges of both Tribunals, all of whom agree with this recommendation, the Internal Justice Council is of the view that it is undesirable for the President of the Appeals Tribunal to determine when a case before the Dispute Tribunal should be heard by a full panel. The Appeals Tribunal will of course be the Tribunal that will have to decide any appeal in the matter in due course and it may well be that objection could be taken to the President of the Appeals Tribunal sitting on an appeal in a case about which he/she had expressed a view before it had even started. In the Council's view, it would better foster the perception of the independence of the Appeals Tribunal if the

[3] Resolution 63/253, annex I.

[4] Ibid., annex II.

President of the Appeals Tribunal were not involved in the proceedings in the lower Tribunal. Moreover, the current rule requires the President of the Appeals Tribunal to take a view on the importance and complexity of an application, a matter that the President of the Dispute Tribunal would at that stage of the proceedings be better placed to decide. In making the decision, the President of the Dispute Tribunal and his or her colleagues are in the best position to take into account a range of considerations including whether there are already in existence conflicting decisions of the Dispute Tribunal on the legal issues in the case, whether the case may establish an important precedent, and whether the facts are particularly complex or controversial. The Council also recommends that a party may indicate in its application or response to the Dispute Tribunal whether it desires the appointment of a three-member panel by the President of the Dispute Tribunal.

6. Support services for the Dispute Tribunal

30. A number of support services are important to the proper functioning of the Dispute Tribunal and would facilitate the professional and efficient handling of cases. These include interpretation and translation services to ensure that the Tribunal can operate in both working languages, English and French. Where witnesses need to give evidence in languages other than English and French, budget for interpretation should be available. Judgements are issued in either English or French and need to be translated into at least the other working language. Good videoconferencing facilities, with sufficient budget to ensure that the technology can be used when needed, are essential as witnesses give evidence over video links. At present, the video and audio links available are often faulty, which threatens the fair administration of justice. Timely and accurate transcription of records is essential for the appeal process and has the potential to save judges significant time. Judges, as well as legal officers, need access to basic legal texts and online legal resources at each seat of the Tribunal. Unfortunately, the budget in the first year of operation has not provided adequately for those services. It is the recommendation of the Internal Justice Council that the administrative budget for the Dispute Tribunal is increased to ensure that adequate transcription, videoconferencing, interpretation and translation services are available at each of the seats of the Tribunal, and that a budget is provided for the acquisition of legal texts and online legal resources.

7. President of the Dispute Tribunal

31. The President of the Dispute Tribunal is required to undertake a considerable amount of administrative work relating to a large volume of correspondence, the coordination and resolution of procedural and other matters arising between the different seats of the Tribunal and legal work relating to the rules of the Tribunal and preparation for the judges' plenary meetings. At present, no provision is made for support services for the President of the Dispute Tribunal, nor is there any provision for the President to travel, as required, to other seats of the Tribunal either to preside over three-judge panels, or to consult with colleagues if circumstances require this. To address that need, the Internal Justice Council is of the view that appropriate arrangements for administrative and legal assistance, as well as a travel budget, should be provided for the President. As the Dispute Tribunal has decided

that the presidency will rotate annually[5] (the Council is not necessarily in agreement with this decision but since the statutes refer only to the election of a president without further detail, it considers that this has been left as a matter for the judges to decide among themselves), provision would be required for that administrative and legal assistance to be made available either on an annual basis only or for it to rotate with the presidency.

C. Language of proceedings

32. The Internal Justice Council has asked the Office of Administration of Justice and the Registrars to monitor the language used by staff members who approach the Tribunal. It is the Council's view that the question of language needs constantly to be reviewed as it is relevant to the qualifications for judicial appointment. The Council notes that, in Nairobi and Geneva, there are judges who are fluent in both English and French, while in New York the judges are fluent only in English. However, when staff members have lodged a complaint in French in New York, the Registrars have made arrangements for a French-speaking judge to hear the matter.

B. United Nations Appeals Tribunal

1. Number of sessions of the Appeals Tribunal annually

33. Although the initial budget for the Appeals Tribunal provides for two two-week sessions per year, in 2010 the Appeals Tribunal will hold three two-week sessions to dispose of its current caseload. While this requirement may not need to be a permanent feature, the Internal Justice Council is of the view that it is important to ensure that the Appeals Tribunal is able to hear and determine appeals from the Dispute Tribunal promptly to avoid the lengthy delays encountered in the previous appeal system. One of the reasons for two-week sessions, rather than longer sessions, is that they enable judges from domestic systems more easily to continue serving as judges in their home jurisdictions while also serving as judges of the Appeals Tribunal. In the view of the Council, enabling judges who are currently serving in domestic systems to be judges of the Appeals Tribunal will enhance the professionalism of the internal justice system. Accordingly, it is the Council's view that provision should be made for the Appeals Tribunal to have three two-week sessions per year. The Council will continue to monitor the number of sessions needed.

2. Remuneration of judges of the Appeals Tribunal

34. The current provision is that judges of the Appeals Tribunal are remunerated on the same basis as judges of the International Labour Organization Administrative Tribunal.[6] In effect, this means that judges are paid US$ 2,400 for each judgement in which they are rapporteur, and US$ 600 for each judgement in which they participate, but not as rapporteur. The Internal Justice Council notes that there are different methods of remunerating judges in international tribunals similar to the United Nations Appeals Tribunal, and suggests that the General Assembly keep the

[5] The Appeals Tribunal has similarly decided to rotate the presidency annually; the question of support for the President of the Appeals Tribunal is dealt with below (paras. 36-37).

[6] See General Assembly resolution 63/253, citing the report of the Advisory Committee on Administrative and Budgetary Questions (A/63/545).

system of remuneration under review. The Council has three proposals concerning the remuneration of Appeals Tribunal judges:

(a) The judges of the Appeals Tribunal serve part-time and many of them, both present and future, are likely to continue serving as judges in their own countries while they serve their terms of office as Appeals Tribunal judges. Many Member States have a blanket rule prohibiting judges from receiving any remuneration other than that which they receive as judges in their national system.[7] This rule, although salutary, may have the unintended consequence of starving the United Nations judiciary of judges. Accordingly the Council suggests that the General Assembly invite Member States to review their policies in a manner that may permit judges to receive remuneration if appointed to a recognized international tribunal;

(b) Secondly, the Council suggests that a resolution be adopted providing that when the rates established for the International Labour Organization Administrative Tribunal are revised, the rates of Appeals Tribunal judges are also automatically revised in step with the new International Labour Organization Administrative Tribunal rates unless the General Assembly decides otherwise.[8] This might require an amendment of the Appeals Tribunal statute, but may also be achieved by a resolution of the Assembly;

(c) Thirdly, judges of the Appeals Tribunal will often be retired judges in their domestic systems on limited pensions and without administrative support. Yet the working of the Appeals Tribunal is dependent on judges being in reliable contact with one another through e-mail, and their working from home. Accordingly, the Council is of the view that Appeals Tribunal judges, like half-time judges of the Dispute Tribunal, should be paid a monthly stipend adequate to cover the costs of Internet connectivity, computer use, conference calls and related administrative expenses.

3. Status of judges of the Appeals Tribunal

35. The Internal Justice Council notes that, in paragraph 7 of its resolution 64/233, the General Assembly requested the Secretary-General to report to it at the sixty-fifth session on the status of judges of the Appeals Tribunal, and their entitlements, including travel and daily subsistence allowance. The question of the status of the judges of both Tribunals is a difficult issue. The Council considers that judges of the two Tribunals should be accorded appropriate senior ranking within the United Nations, as judges of other United Nations tribunals have been. Judges of both the Dispute Tribunal and the Appeals Tribunal give important decisions on administrative and financial matters of great and far-reaching importance to the Secretary-General and the United Nations generally, and it is therefore very desirable to attract to its ranks the ablest judges from national superior courts, who have senior ranking in their own countries. This matter has not been raised with a view to increasing the remuneration of judges, and therefore the possibility of

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[7] This prohibition apparently applies to two of the current Appeals Tribunal judges.

[8] The problem does not arise with regard to the remuneration of judges of the Dispute Tribunal. Their remuneration is currently tied to the D-2 level (this is another matter which the Assembly may wish to keep under review) and their levels of remuneration will be subject to revision whenever D-2 salary levels are revised.

detaching questions of remuneration from rank should be investigated. The Council suggests reconsideration of this issue by the General Assembly.

4. Staffing of the Appeals Tribunal

36. At present, the Appeals Tribunal has a Registrar, a P-3 legal officer, a legal assistant at G-6 level and an administrative assistant at G-5. From 1 July 2009 to 30 June 2010, the Appeals Tribunal had a caseload of 110 cases, including 19 transferred from the old system in January 2010. After two sessions, decisions have been handed down in 64 cases. Appeals Tribunal staff assist the judges by, for example, preparing and maintaining appeal files, conducting research and preparing associated memoranda for judges, preparing summaries of the legal and procedural issues relevant to each case, preparing draft judgements, and checking and proof-reading judgements once they are complete. Performance of these tasks streamlines the work of the Tribunal by ensuring that each of its sessions is conducted smoothly and efficiently and that the Tribunal is able to deal effectively with as many cases as possible, avoiding the delays encountered in the old system of justice. The experience of the last two sessions of the Appeals Tribunal is that, with its current staffing, the registry is unable to prepare the legal memoranda and summaries of issues to the standard and with the speed necessary for the judges to carry out their work effectively and efficiently. This issue has been raised with the Internal Justice Council on every occasion that its members have met or spoken with the judges of the Appeals Tribunal. In the Council's view the current staffing level is insufficient to handle the current caseload and it may threaten the ability of judges to carry out their work effectively and efficiently. A useful comparison can be drawn with the International Labour Organization Administrative Tribunal (upon which the Appeals Tribunal is modelled), which also handles approximately 110 cases per year and has seven lawyers in the registry, as well as the Registrar and Assistant Registrar, two secretaries, a network administrator who also works as a proofreader, and four typists during a session.

37. The Internal Justice Council notes that the Redesign Panel recommended the Appeals Tribunal have, in addition to the Registrar, three legal officers and one administrative assistant (A/61/205, annex III). The Council also notes that the Secretary-General recommended a similar staffing level of three legal officers and three administrative assistants (A/62/294, annex IX). The Council requests the General Assembly to reconsider the recommendations of the Redesign Panel and of the Secretary-General with respect to the staffing of the Appeals Tribunal, so that it could have three legal officers, at least one of whom should be competent in French, and three legal assistants. The Council is of the view that this staffing level should be adequate to provide the President of the Appeals Tribunal with support relating to his or her functions (see para. 31 above).

C. Issues common to the two Tribunals

1. Judicial oath of office and regulations binding judges

38. On their appointment, judges of the Dispute Tribunal and the Appeals Tribunal took the oath of office prescribed for officials other than Secretariat officials and for experts on mission as set out in ST/SGB/2002/9 (regulation 1(b)). It is the view of the Internal Justice Council that judges should take a separate oath of office,

appropriate for their independent judicial status and function, and that that oath should be included in the statute of each Tribunal. Such an oath might read:

> I swear/solemnly undertake to carry out my judicial duties as a judge of the United Nations Appeals Tribunal/United Nations Dispute Tribunal independently and impartially and without fear or favour and that I shall abide at all times by the code of conduct.

39. The Internal Justice Council also considers that the status of judges needs to be fully considered. Any regulation of their relationship with the United Nations needs to be compatible with their independent judicial status. The General Assembly may therefore wish to consider whether the application to the judges of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (ST/SGB/2002/9) is appropriate. That Bulletin imposes, using different language, obligations that in many instances are duplicative of those imposed by the code of conduct for judges, and is therefore likely to cause confusion. In the view of the Council, while the Dispute Tribunal judges should enjoy the privileges and immunities conferred on officials other than Secretariat Officials under the Convention on the Privileges and Immunities of the United Nations, and the Appeals Tribunal judges the privileges and immunities conferred on experts on mission, the code of conduct for judges should regulate the ethical responsibilities of judges. The Council is particularly concerned lest application of certain of the regulations to judges be perceived as a threat to their independence.

2. Complaints mechanism

40. Although the code of conduct has been tabled, no mechanism for dealing with complaints against judges exists. The Internal Justice Council considers this to be a matter that requires urgent attention. In one instance, a party has written to the Chair of the Council to complain about the conduct of a judge in respect of language used in a judgement. The Chair, after consultation with the Council members, wrote back to say that, although it is clear that valid complaints against judges directly affect the independence, professionalism and accountability of the new system of justice (the mandate of the Council being to help to ensure these qualities), without a direct mandate from the General Assembly, the Council cannot deal with complaints against judges. Although other suggestions have been considered in the past,[9] the Council would seem to be an appropriate body to deal with such complaints, as it is the body that recommends the judges to the General Assembly for appointment and may therefore be the body that, after proper enquiry, could have the task of advising or censuring a judge, or of recommending to the Assembly that a judge should be dismissed in the unlikely event of a grave breach of the code of conduct. It is only in the latter case that a meeting of the Council would be necessary. The Council is also of the view that it should be made quite clear that judges may be subjected to complaints only on the basis of the code of conduct.

3. Code of conduct for all legal representatives

41. In resolution 62/228, paragraph 16, the General Assembly requested the Secretary-General to establish a code of conduct regulating the activity of internal and external individuals providing legal assistance to staff to ensure their

[9] See the recommendation made by the Secretary-General in A/63/314, para. 78.

independence and impartiality. The Internal Justice Council understands that the Office of Staff Legal Assistance has voluntarily adopted a code of conduct for its own staff and, although it understands that management has prepared a draft code for its legal representatives, it has not seen that code. The Council is of the view that a code of conduct applying to all legal representatives who appear before the Tribunals, whether they represent staff or management, should be adopted without delay, to clarify appropriate standards of conduct and professionalism. The General Assembly may regard it as appropriate to request either the judges of the Tribunals or the Internal Justice Council in consultation with the judges and legal representatives to draft an appropriate code of conduct. Consideration might also be given to how breaches of the code might be addressed.

4. Binding nature of orders of the Tribunals

42. The Internal Justice Council records that it is important that the General Assembly and the Secretary-General endorse the principle that the orders of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal are binding. This was a key aspect of the report of the Redesign Panel (A/61/205, para. 14), and was endorsed by the Secretary-General (A/61/758, paras. 17 and 21). Moreover, the endorsement of this principle is important if the Dispute Tribunal and the Appeals Tribunal are to play a significant role in ensuring accountability. Of course, if either party is unhappy with an appealable final judgement of the Dispute Tribunal, that party may lodge an appeal, on an expedited basis if necessary, against the judgement.

5. Travel

43. Although the Internal Justice Council considers that modern methods of communication (e-mail, teleconferencing, videoconferencing) should be used to facilitate communication on many issues to avoid the costs of travel, it is nevertheless sure that some travel is integral to a decentralized justice system. Common experience shows that there are occasions when face-to-face meetings may be the only effective way of handling certain matters. It is in this light that the Council has considered the issue of travel in relation to the Tribunals and the Office of Administration of Justice.

44. The budget for the Tribunals needs to provide for travel of judges for plenary sessions and, where required, for sessions, particularly for the half-time judges and where three-judge panels are to be convened; it also needs to provide for meetings of the Registrars of the Dispute Tribunal — preferably to coincide with the plenary sessions of judges in order to assist in coordination, identification and resolution of issues — as well as travel of staff of the Office of Administration of Justice to Geneva or Nairobi when such travel is essential for the proper functioning of the justice system. The travel budget for the Office of Administration of Justice needs to meet these various requirements.

6. Review of statutes

45. As noted in paragraph 21 above, the General Assembly has indicated its intention to review the statutes of the Tribunals in the light of experience gained. The Internal Justice Council has proposed some small amendments to the statutes (see paras. 21, 23, 28, 29 and 34 (b)). It considers that, beyond these minor changes,

there is no need at this stage for further amendment of the statutes. The Council considers that it would be advisable for the General Assembly to review the internal system of justice again in two years' time, during the sixty-seventh session.

7. Review of the jurisprudence of the Tribunals

46. As mentioned above, both Tribunals have worked hard during their first year. Any comment on the jurisprudence of the Tribunals must be respectful of their independence, but the Internal Justice Council notes that it is necessary to review the jurisprudence to ensure that the objectives of the new system are being met. At this stage, however, the Appeals Tribunal has handed down only a handful of judgements with reasons relating to the new system so there is little comment to be made at this stage. The Council does not consider it appropriate to comment on judgements of the Dispute Tribunal that may well be pending appeal to the Appeals Tribunal, as this may well be seen as an infringement of the independence of the Appeals Tribunal.

8. Review of the rules of the Tribunals

47. The Internal Justice Council notes that the rules of the Dispute Tribunal and the Appeals Tribunal were adopted by the General Assembly without amendment. The members are aware that judges of both Tribunals are continually reviewing the rules in the light of the experience of the Tribunals, and have no doubt that the judges will propose such amendments to the rules as they consider fit. The Council also has no doubt that the judges will consider amendments to the rules proposed by either management or staff.

9. Consultation with the Presidents of the Tribunals on the budgets of their respective Tribunals

48. It is now widely recognized that judicial independence requires a degree of institutional autonomy as well as individual judicial autonomy. To this end, the Internal Justice Council notes that the Presidents of both Tribunals should be consulted by the Office of Administration of Justice on the budgets for their respective Tribunals.

10. Office space

49. Early in the year, suitable office space for the staff of the Tribunals as well as the availability of suitable courtrooms was a great challenge. Over the course of the year, however, this challenge has been largely addressed. The facilities in Geneva are good. The office space facilities for the Dispute Tribunal in Nairobi are adequate, but as yet no courtroom has been found, though the Internal Justice Council understands that this issue is being addressed. The position of the Dispute Tribunal in New York has been particularly challenging, given the refurbishment programme at the Headquarters building. However, at this stage office space has been allocated, and a courtroom is planned. The Council has not yet seen the new space. The first session of the Appeals Tribunal was held in Geneva and the second session in New York. Although the Appeals Tribunal judges do not require permanent office space, they do need adequate space to be allocated to them during their sessions, as well as the availability of a courtroom for public hearings. The Council confirms that in identifying suitable space for the Tribunals, it should be

borne in mind that the offices and courtrooms provided must foster the perception of the dignity and independence of the Tribunals.

11. Open hearings

50. The principle of open justice was emphasized by the Redesign Panel as a clear requirement in international standards, particularly where there are disputes of fact (A/61/205, para. 10; see also para. 94). The Internal Justice Council notes that the Dispute Tribunal has held a large number of open hearings during its first year of operation. It also notes that there is a difference in practice in this regard between New York and Nairobi on the one hand, and Geneva on the other. However, the Council is also aware that the judges of the Dispute Tribunal are conscious of this difference and are working hard to establish uniform practices with regard to open hearings. The Appeals Tribunal has held only two open hearings during its first two sessions, but the Council understands that the Appeals Tribunal intends to hold open hearings more frequently in future. It understands that the shortage of registry staff (see para. 36 above) is one of the factors that has hampered the Appeals Tribunal in this regard. The Council will keep the situation under review in the light of the principle of open justice.

12. Equality of arms

51. One of the issues raised by all role players (staff, management and judges) is the question of equality of arms. The issue of staff legal representation is discussed in paragraphs 61 to 73 below. The Internal Justice Council also notes that management is taking steps to ensure that it is adequately legally represented. In The Council's view, the equality of arms is an important principle in any fair legal system. It is a matter that should remain under review in future years.

13. Publication of judgements and website

52. It is important that judgements are easily accessible and modern web-based technology provides an important tool for making judgements available. It took some time for the new website for the administration of justice to be fully operational. The new website is now operational and contains all the judgements handed down by the Dispute Tribunal and the Appeals Tribunal. The Internal Justice Council welcomes the establishment of the website and urges that it continue to be developed so as to foster access to the judgements of the Tribunals.

V. Office of Administration of Justice

53. The Office of Administration of Justice was established pursuant to General Assembly resolution 62/228 as the independent office responsible for the overall coordination of the formal system of the administration of justice and for contributing to its functioning in a fair, transparent and efficient manner. It provides technical and administrative support to the Dispute Tribunal and the Appeals Tribunal through their registries; assists staff members and their representatives in pursuing claims and appeals through the Office of Staff Legal Assistance; and provides assistance through the Office of the Executive Director, as appropriate, to the Internal Justice Council. In particular, the role of the Executive Director of the Office is to guarantee the independence of the internal justice system and the overall

administrative coordination of the formal part of the system. As such, it parallels the role of the head of the informal justice system, the Ombudsman, who is classified at the Assistant Secretary-General level, and appears to have direct access to the Secretary-General for the performance of his or her functions.[10] The Executive Director's role includes provision of support to the judges of the two Tribunals; oversight and coordination of both registries; liaison where necessary on justice issues with Heads of Department and Office; oversight of the Office of Staff Legal Assistance; and representation of the United Nations at meetings with the heads of the internal justice systems of other international organizations.

A. Office of the Executive Director

54. The principal task of the Office of the Executive Director from July 2009 to June 2010 has been to render the new system of justice operational. To do this, the Office has coordinated the selection of staff for the registries of both the Appeals Tribunal and the Dispute Tribunal as well as the Office of Staff Legal Assistance, and provided technical and administrative support to each of these units; provided assistance to the judges of the Tribunals in taking up their duties, including an induction course upon their arrival; and conducted a global internal communications campaign designed to inform staff about and facilitate their access to the new system of justice. The campaign involved holding town hall meetings in various duty stations, publishing a handbook entitled *A Guide to Resolving Disputes* in the six official languages, and developing a web-based case management system as well as a dedicated website.

55. During the first year, the Office of the Executive Director has played a key role in supporting the transition from the previous system to the very different new one, despite its limited budget. The Internal Justice Council considers that the following important issues require the attention of the General Assembly.

1. Independence of the Office of Administration of Justice

56. The independence of the new system is crucial to the reform of internal justice in the United Nations. The independence of a justice system requires that the system function independently and that it be seen to do so. The Office of Administration of Justice is an important guardian of the independence of the internal system of justice. Accordingly, the arrangements attending all its operations must not only secure independence in fact but must also establish a strong perception of independence. Currently, the Office of Administration of Justice reports to the General Assembly through the Office of the Secretary-General, which represents management in all cases brought by staff in the Tribunals. To maintain confidence in the independence of the Office of Administration of Justice, the Internal Justice Council recommends that the Office report directly to the General Assembly. This will require the adoption of a resolution to that effect.

[10] See the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services (A/64/314, para. 8).

2. Level of the Executive Director

57. The Redesign Panel recommended that the position of the Executive Director should be at the level of Assistant Secretary-General (A/61/205, paras. 124 and 153). This recommendation was endorsed by the Secretary-General (A/62/294, annex IX). The General Assembly did not accept that recommendation, however, and established the post at the D-2 level. In view of the importance of the Office for the efficient functioning of the formal justice system, and the need for the Executive Director to have the capacity to perform his or her duties effectively (see para. 53 above), the Internal Justice Council considers that this issue should be revisited with a view to making the level of the position of Executive Director equivalent to that of the Ombudsman. If the post of the Executive Director were to be reclassified to Assistant Secretary-General status, it would also be appropriate to reclassify the post of the Special Assistant to the Executive Director, consistent with the recommendations of the Secretary-General in the organization chart for the Office of Administration of Justice (A/62/294, annex IX).

B. Operational and budgetary support

58. At present, the operational and budgetary support for the Office of Administration of Justice is provided by the Executive Office of the Secretary-General, which was not allotted additional resources to assume this added, and often substantial, workload. The Internal Justice Council recommends the establishment of one Professional Service administrative officer and one General Service administrative assistant to provide for daily operational support either in the Executive Office of the Secretary-General or in the Office of Administration of Justice to provide adequate administrative support to ensure the efficient functioning of the Office of Administration of Justice.

59. The issue of the budget for travel is addressed above (paras. 43-44).

C. Outreach and training

60. The Redesign Panel indicated that the efficacy of the proposed reforms to both the formal and the informal systems depends on the careful education and training of all judges, ombudsmen, legal representatives, registrars, mediators and court and office staff (A/61/205, para. 115). The Internal Justice Council was dismayed at the low level of understanding of the new system among staff members and management, particularly outside New York. Although much has been done to explain the operation of the new system of justice to staff, and it is apparent that the use of the system is increasing, the Council is of the view that much more needs to be done. Consistent with the report of the Redesign Panel (ibid., paras. 115 and 119), training of management personnel in the new system, particularly in duty stations outside New York, needs to be undertaken, as well as case management training for legal representatives of both staff and management in order to better assist the judges and to streamline the conduct and hearing of cases.

VI. Office of Staff Legal Assistance

61. The Office of Staff Legal Assistance was established by the General Assembly pursuant to a recommendation of the Redesign Panel. The Panel indicated that an egregious inequality of arms existed between management and staff because management was represented by a cadre of legally qualified staff when issues arose within the internal justice system between staff and management. Staff on the other hand had difficulty in obtaining proper legal representation, and the system of volunteers that existed to help staff was poorly organized and the members often without legal qualifications (A/61/205, paras. 102-106). The Assembly affirmed that the United Nations should be an exemplary employer, agreed that legal assistance to staff should continue to be provided, and supported the strengthening of a professional office of staff legal assistance.[11] The Office of Staff Legal Assistance was established by resolution 62/228, paragraph 14, and consists of one Chief of Unit (P-5), one Legal Officer (P-3), one Legal Officer (P-2) and three Legal Assistants (General Service (Other level)) in New York, and one Legal Officer (P-3) each in Addis Ababa, Beirut, Geneva and Nairobi. The mandate of the Office is to assist staff members and their volunteer representatives in processing claims through the formal system of administration of justice.[12]

A. The work of the Office of Staff Legal Assistance

62. Staff members of the Office of Staff Legal Assistance have rapidly become familiar with United Nations human resource rules and practice, and the applicable law. They are, therefore, in a much better position to advise on personnel issues than outside counsel. Furthermore, they are all legally qualified and gain no financial benefit from pursuing cases against the Organization. As a result, the advice given by the Office when a case is brought to its notice is strictly professional, based on the legal and factual merits of the case. If a claim by a staff member is without merit, he or she will be advised accordingly, with a good chance of the claim not burdening either the informal or the formal system of justice. If, however, a claim has recognizable merit, it will be presented efficiently, with good chances of success before a Tribunal. The Office therefore indirectly contributes to staff education in personnel rules and practices. Management will also carefully examine the validity and circumstances surrounding claims presented by the Office, and this increases accountability. Moreover, the Office, being located within the Office of Administration of Justice, an independent office, but still a unit with access to the highest reaches of management, forms a buffer between the staff member and management, and prevents any undue pressure being exerted on the staff member. The staff assistance given by the Office of Staff Legal Assistance for the period from 1 July 2009 to 31 May 2010 is set out in the Secretary-General's report on administration of justice. Assistance given covers a variety of bodies, and a variety of subjects.

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[11] Resolution 61/261, second preambular paragraph and para. 23.

[12] Resolution 63/253, para. 12. It may be remembered that simultaneously with the establishment of the formal system of justice within the new internal justice system (resolution 61/261, para. 4), the General Assembly established an expanded informal system of administration of justice (ibid., paras. 11-18).

B. Structure of the Office of Staff Legal Assistance

63. The Office of Staff Legal Assistance was created simultaneously with the start of the new justice system, and therefore its needs could not be accurately predicted at the time that it was established. The investigations of the Internal Justice Council have shown that its structure requires certain adjustments. Demands for assistance greatly exceed the capacity of the Office to deliver it. The result is that the Office is unable to undertake all meritorious claims by staff. It has therefore prioritized cases involving disciplinary sanctions, terminations and non-renewal of contracts.

64. The Internal Justice Council notes that, at the time the new justice system was established, the General Assembly emphasized the importance of initiating a staff-funded scheme in the Organization to provide legal advice and support to staff.[13] It also — and contrary to the findings of the Redesign Panel — commended the role that volunteers had traditionally played in representing staff in the dispute resolution process, and requested the Secretary-General to provide incentives to encourage current and former staff to assist staff.[14] The General Assembly therefore did not contemplate that the Office of Staff Legal Assistance should bear the entire burden of providing legal assistance to staff.

65. Nevertheless, the Internal Justice Council is convinced that, if the Office of Staff Legal Assistance is to properly perform its role in promoting efficiency, economy and accountability, it needs to be strengthened. In this regard, the Council takes note of the comments of the Management Evaluation Unit at the end of its report for the period from 1 July to 31 December 2009. The Unit commented that staff members often have difficulty in formulating their requests for management evaluations because of the complexity of the legal issues involved. The Unit stated that it had addressed the problem by recommending that staff members seek counsel from the Office of Staff Legal Assistance. However, the Management Evaluation Unit is concerned that the important need to refer staff members to the Office of Staff Legal Assistance for assistance in formulating their requests for management evaluation places an additional burden on the Office that may be difficult for it to meet at current staffing levels. Should staff members find it difficult to access counsel in formulating their requests for management evaluation, the Unit is concerned that this could cause a ripple effect in the system of justice. These comments bolster the Council's view that the Office of Staff Legal Assistance requires additional capacity.

66. When the Office of Staff Legal Assistance was established, no General Service administrative support was provided for the legal officers in Addis Ababa, Beirut, Geneva and Nairobi. As a result, the formal processing of all applications by staff for legal assistance, from whatever area they originate, has to be done in New York. Moreover, all secretarial functions associated with the handling of cases, such as photocopying, filing, filling in forms, collecting information from applicants and other sources and assembling documents have to be done by the legal officer. This is an onerous burden distracting the officer from his or her central functions. Furthermore, the four legal officers are at the P-3 level, with no career path within the Office. They will inevitably have to leave the Office, probably at a stage when they have gained considerable expertise in performing their duties. The need to give them some career development prospects and ensure continuity in each duty station through retention of

[13] Resolutions 61/261, para. 24; 62/228, para. 17; and 63/253, para. 14.

[14] Resolutions 62/228, para. 18; and 63/253, paras. 9 and 11.

expertise becomes particularly evident when one considers the complex skills that they may successfully display, although only at the P-3 level, including the analysis of difficult legal issues and appearances before the Dispute Tribunal. Moreover, the skill set required for these posts makes it very difficult to find appropriately qualified applicants willing to perform those functions at that level.

67. In evaluating the structure of the Office of Staff Legal Assistance, a related aspect that needs consideration is the role envisaged by the General Assembly for the Office in relation to assistance to staff by volunteers. The General Assembly has made it clear that it desired the continuance of volunteer assistance to staff in disputes with the management by staff or ex-staff members,[15] but that such assistance was to be given by participating in the Office of Staff Legal Assistance.[16] Furthermore, part of the mandate of the Office is to assist staff and their volunteer representatives in processing claims through the formal system of justice.[17]

68. The Internal Justice Council has found that the system of volunteer assistance both provides opportunities and has limitations. At some duty stations, experienced staff members or ex-staff members are available to help staff with disputes if they are given the necessary facilities by the Office of Staff Legal Assistance. At other duty stations, there are few or no experienced volunteers. In particular, no volunteers have been identified by the Office at most peacekeeping missions.[18] The practice of providing staff with incentives to serve as volunteers is not widespread (a notable exception is UNHCR) and even where it exists has not yet produced significant results.[19] When volunteers are available, the amount of assistance that they can provide remains limited.

69. Despite the limitations noted above, the Internal Justice Council is prepared to accept the possibility that an attempt to establish a cadre of qualified volunteers at duty stations may be viable. It is important to emphasize however that the quality of volunteer assistance needs to be assured. To this end, the Council considers that volunteers can provide valuable assistance only if they are organized, assisted and supervised by staff of the Office of Staff Legal Assistance. The Council is convinced that, with their current workload, staff members of the Office do not have the time or the

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[15] Resolution 63/253, para. 9.

[16] Resolution 62/228, para. 18.

[17] Resolution 63/253, para. 12.

[18] Currently taking into account all duty stations, the Office of Staff Legal Assistance has a total of five staff and eight ex-staff as volunteer counsel.

[19] UNHCR has provided one volunteer counsel to the Office of Staff Legal Assistance on a non-reimbursable basis potentially for one year, and it is expected that UNHCR may provide another staff member potentially for six months. An administrative instruction providing incentives within the Secretariat is being discussed by the Secretary-General with staff. UNHCR has agreed that managers should grant to volunteers 10 per cent of working time to devote to staff assistance.

resources to organize volunteers.[20] Nor do they currently have the time to try to organize pro bono legal assistance to staff, which might be available at some duty stations.

70. The Internal Justice Council notes that, in his report to the General Assembly (A/62/294), the Secretary-General recommended posts at the P-4 level for regional coordinating counsel in Geneva and Nairobi and further recommended a senior legal officer for New York who could serve as a deputy to the Chief of the Office of Staff Legal Assistance. The Council believes that these recommendations should be reconsidered by the General Assembly. In Geneva, Nairobi and New York, where qualified volunteers are likely to be available, senior legal counsel could provide the necessary organizational supervision and support to develop a volunteer system. In Geneva and Nairobi, they would also alleviate the difficulties faced by a lone representative of the Office of Staff Legal Assistance handling numerous cases at a duty station without collegial support. In addition, the P-4 posts recommended by the Secretary-General could serve as a career path for the existing P-3 legal officers. The Council is of the view that there is likely to be serious lack of continuity in the provision of legal assistance to staff if these issues cannot be addressed.

71. The Internal Justice Council also recommends the establishment of a General Service administrative post at each centre where the Office of Staff Legal Assistance has legal representation outside New York (currently Addis Ababa, Beirut, Geneva and Nairobi) to ensure that the P-3 legal officers are able to focus on legal work and do not have to spend time on administrative tasks.

72. Legal assistance to staff at peacekeeping missions remains an area of concern. At present, according to the composition of the Secretariat as at 30 June 2010, the African Union-United Nations Hybrid Operation in Darfur, the United Nations Mission in the Central African Republic and Chad, the United Nations Operation in Côte d'Ivoire, the United Nations Organization Mission in the Democratic Republic of the Congo, the United Nations Mission in Liberia, United Nations Mission in the Sudan and the United Nations Mission for the Referendum in Western Sahara (the peacekeeping operations in Africa) alone have in total approximately 4,306 international civilian staff, and 7,333 local staff.[21] The Redesign Panel recommended that staff of the Office of Staff Legal Assistance should be stationed at peacekeeping missions with significant numbers of civilian staff, funded by

[20] At the end of the period 1 July 2009 to 30 June 2010, 428 ongoing cases were being handled by the seven Professional staff of the Office of Staff Legal Assistance. (A total of 938 cases were handled by the Office during the year; 510 of these had been closed or resolved by 30 June 2010.) The current workload works out at 63 cases per officer, though of course this calculation is very approximate as workloads vary from period to period and from duty station to duty station. These statistics are drawn from the second activity report of the Office of Administration of Justice. The Internal Justice Council has been informed that an informal review of lawyers/legal officers working in Geneva and New York for the Secretariat and the funds, programmes and other organizations serviced by the Dispute Tribunal and the Appeals Tribunal estimated their total number at 22 as opposed to the seven working for the Office of Staff Legal Assistance.

[21] In addition, there are in the Americas the United Nations Stabilization Mission in Haiti; in Asia and the Pacific the United Nations Integrated Mission in Timor-Leste, the United Nations Military Observer Mission in India and Pakistan and the United Nations Assistance Mission in Afghanistan; in Europe the United Nations Peacekeeping Force in Cyprus and the United Nations Interim Administration Mission in Kosovo; and in the Middle East the United Nations Disengagement Observer Force, the United Nations Interim Force in Lebanon and the United Nations Truce Supervision Organization.

financial provision in the mission budgets (A/61/205, paras. 109-110). At the Staff-Management Coordination Committee held following the issuance of the report of the Redesign Panel, it was agreed that staff should be stationed at the missions in the Democratic Republic of the Congo, Liberia and the Sudan (A/61/758, para. 9). However, the arrangements for the Office of Staff Legal Assistance made by the General Assembly did not make any special provision in respect of peacekeeping operations. According to the statistics provided by the Office of Administration of Justice for the period from 1 July 2009 to 30 June 2010, the largest number of ongoing cases being handled by the Office of Staff Legal Assistance, analysed by department/office (113), is from the Departments of Peacekeeping Operations and Field Support.[22]

73. At present, as with all requests for assistance from the Office of Staff Legal Assistance, a request from a peacekeeping operation is sent to New York, and the case is then handled from New York or Nairobi. Through funding provided by the Department of Field Support, staff of the Office of Staff Legal Assistance have been able to visit major peacekeeping missions to provide advice and assistance. The Internal Justice Council feels, however, that such support is inadequate both because of the number of staff at peacekeeping missions and the number of cases that are generated from the missions. The Council therefore believes that providing funding for at least one bilingual (English/French) professional legal officer of the Office of Staff Legal Assistance to be stationed at a location with access to the various peacekeeping missions, such as Entebbe (where a new centre to provide support to peacekeeping missions is being established), Nairobi or a similar location and for travel among mission duty stations is desirable. Like the other offices of the Office of Staff Legal Assistance staffed only by P-3 legal officers, the new office of the Office of Staff Legal Assistance should also be provided with one General Service administrative staff member.

VII. Internal Justice Council

74. The Internal Justice Council held numerous teleconferences and two meetings during 2008 (in New York and The Hague), its first year of operation. Its core task in its first year was the identification of suitable candidates for appointment to the Tribunals. From July 2009, when the new system commenced, the focus of the work of the Council was to prepare a report on its views for the General Assembly. An additional task was the drafting of a code of conduct for judges of the Tribunals. During 2009, the Council held numerous teleconferences and two meetings (in New York and Geneva). In 2010, the Council has also held two meetings (in Nairobi and Geneva) and numerous teleconferences. It has been ably supported in its work by the Office of Administration of Justice.

75. A further role for the Internal Justice Council as a facilitator of communication within the new system of internal justice has begun to develop in the past year. This role arose from the fact that all the role players in the new system felt that the Council should be informed of challenges they faced in the new system. Some of those challenges have informed the content of the present report. At times, however, facilitating communication between the different role players (for example, at the teleconference held with role players in July 2010, described in para. 13 above) led

[22] The next highest number (60) is from the Department of Management.

to the resolution of some difficulties. The Council considers that it should continue to play this role if other role players and the General Assembly support this.

76. The Internal Justice Council considers that in future years it will need to hold two formal meetings per year, to review the operation of the system, plus occasional meetings, when vacancies occur, to interview candidates to be recommended to the General Assembly for appointment to the Tribunals. When vacancies occur, the Council is of the view that the posts should be advertised as described in paragraph 17. Suitable candidates must be required to attend face-to-face interviews with the Council and to write examinations at the same time.

77. At least three of the members of the Internal Justice Council are external to the Organization. In the Council's view, this is a strength, as is the bipartite nature of the institution, composed as it is of both staff and management representatives. It is accepted and it is a further strength that the staff representatives and the management representatives will come to the Council alert to the needs of staff and management respectively, but able to make their contribution in the light of an independent and objective appraisal of the needs of the administration of justice. The members have worked as a Council very harmoniously and constructively and each member has brought a particular perspective and experience to it which has been valued by all.

78. Now that the redesigned system has been in place for a year, and is operating with considerable effect, the Internal Justice Council anticipates that its task in future will be to make recommendations that help to ensure that the system retains its independent status, and that it works professionally and accountably. The Council must help to ensure that all perceive the system to be fair and that the other objectives of accountability and independence are achieved. If the General Assembly were to so empower it, the Council could perform the function of hearing complaints against judges (see para. 40 above). Only a very serious complaint would require a special meeting of the Council. The Council's role is at an early stage, but it has already been the subject of favourable comment, particularly in relation to the manner in which it approached the task of identifying suitable candidates for appointment.[23]

VIII. Relationship between the formal and informal systems

A. Background

79. The Redesign Panel in its report envisaged that the informal system of internal justice would parallel the formal system. By strengthening the Office of the Ombudsman and establishing a Mediation Division within it, the proposed system was designed to allow the informal and formal systems to work together to resolve disputes at the earliest possible stage. Increasing resources devoted to the prevention and early resolution of disputes would, it was thought, result in significant downstream savings for, and ensure the more efficient functioning of, the formal

[23] "Choosing judges: wanted: Better Judgment, fewer crowd-pleasers and lickspittles", *The Economist* (20 November 2008). See also the brief discussion of the approach of the Internal Justice Council in Ruth Mackenzie and others, *Selecting International Judges — Principle, Process, and Politics* (Oxford University Press, 2010), p. 150.

justice system. The Mediation Division was intended to mediate disputes upon referral by the Ombudsmen or from judges in the formal system of justice (A/61/205, paras. 45, 132 and 49).

80. Subsequent discussion of the reform of the internal justice system has repeated these goals (see, for example, the report of the Advisory Committee on Administrative and Budgetary Questions (A/61/815) and resolution 61/261, para. 15). In addition to stressing that informal avenues should be exhausted before recourse to the formal system, the General Assembly also noted that cases could also be referred to mediation by the Ombudsman and the Dispute Tribunal. With respect to the conditions under which pending cases might be referred, the General Assembly noted the view of the Secretary-General that it would not be desirable to enumerate an exhaustive list of such criteria, as this would unduly bind the discretion of the Dispute Tribunal judges (A/62/782, para. 71). The General Assembly also noted that, while the consent of the parties to engage in mediation would facilitate the process, it would not be required as a precondition for the Dispute Tribunal to refer a case to mediation; however, a settlement arising out of mediation would not be valid unless both parties had consented to it (ibid., para. 72).

81. The General Assembly requested the Secretary-General to consider and make proposals at its sixty-fifth session for providing incentives for employees seeking dispute resolution to submit disputes to mediation under the auspices of the Office of the Ombudsman; it also requested him to take advantage of existing mechanisms for conflict resolution and mediation, as deemed useful and appropriate, in order to facilitate a renewed dialogue between staff and management (resolution 63/253, paras. 20 and 22).

B. Results of implementation of the new system of internal justice

82. The Internal Justice Council has no doubt that the system of informal dispute resolution is of great importance and that, where at all possible, it is better if disputes can be resolved by agreement rather than recourse to the Tribunals. At this early stage of the implementation of the new system of justice, it is not possible to form a definitive view of the relationship between the formal and informal parts of the system and whether or not that relationship is optimal. Available statistics indicate that the overall number of cases referred to the Office of the Ombudsman since July 2009 has increased by more than 80 per cent and that, in nearly 80 per cent of those cases, a satisfactory solution was found for the parties involved and they did not proceed to the formal system. Where the cases referred to the informal system involve issues similar to those referred to the formal system, namely, staff selection, promotion and entitlements, understanding why cases follow different routes would enhance the understanding of the relationship between the two parts of the system. To that end, and to permit valid comparison, the Council is of the view that the nature and organization of statistics kept by the formal and informal systems should be coordinated.

83. The number of cases being referred from the formal system to mediation is increasing; while this number could be further increased there must be sufficient resources in the informal system to address these referrals appropriately and in a timely manner. Moreover, it is desirable that the terms on which these cases are

referred is consistent across the different seats of the Dispute Tribunal and facilitate appropriate treatment in the informal system. This is an issue that must be monitored over the coming years.

84. Interviews of stakeholders conducted by the Internal Justice Council indicate that there are a number of concerns relating to staff and management understanding of the relationship between the formal and informal systems, particularly away from New York. There is a general lack of awareness of the impact of the reform of the internal justice system and the lack of information and understanding is more pronounced the greater the distance from headquarters duty stations. There is also a concern that how the two parts of the system work together and the results and benefits that can be delivered by each is insufficiently clear to both staff and management. As noted above (see para. 60), further training is necessary on the new system. The Council is of the view that incentives to use informal dispute resolution mechanisms should focus on all employees of the United Nations and that staff and management should be strongly encouraged to use the informal system.

85. It has been suggested that management is not supportive of the process of informal resolution and that, where it is, management representatives are not properly mandated to mediate or enter into settlement agreements. Management officials participating in mediation need to be appropriately mandated to reach solutions. Moreover, it has been suggested that, even when a settlement is agreed involving a payment to a staff member, there is no guaranteed provision of budgetary resources to provide payment.[24] The Internal Justice Council recommends that, when a settlement is reached, the Organization should guarantee the payment of the settlement amount.

86. In some cases, informal mechanisms are viewed as unlikely to produce the resolution of disputes. Such cases include non-renewal of contracts, challenges to promotion and appointment, the interpretation of staff rules and administrative instructions, and issues involving payment of money, especially where there are disputes as to the quantum. Another issue relating to monetary payment is the risk perceived by management that they may be personally liable under ST/AI/2004/3 if a settlement is perceived subsequently to have been grossly negligent. In such cases, management may prefer recourse to the formal system to establish a principle to guide future action, rather than seeking a solution for a single case.

87. It has also been suggested that staff view the formal system as delivering favourable results and that therefore they do not seek to use the informal system. This may be a temporary phenomenon. Once the principles of the new jurisprudence are established, mediation may become more attractive. The Internal Justice Council was also told that, in some duty stations, negative experience with the former Ombudsman system militates against use of the informal system. A final factor making staff members reluctant to use the informal system may be the fact that, if a referral to management evaluation does not occur within the stipulated 60 days, a staff member may not be able to pursue further relief if the Management Evaluation Unit does not agree to late filing of a referral. The Council considers that the rules should be amended to provide that the time periods for filing a referral for

[24] Management has informed the Internal Justice Council that, when a settlement has been entered into by an authorized representative, payment has always been made.

evaluation will be automatically suspended for the period during which a staff member pursues informal resolution of a dispute.

IX. Management Evaluation Unit

88. One of the issues the General Assembly is to consider at its sixty-fifth session is the role of the Management Evaluation Unit. During discussions the Internal Justice Council held with a range of role players, the functioning of the Unit was discussed. The Council has not had an opportunity to meet with the staff of the Unit, which is based in New York, but has had an opportunity to read its report for the period from 1 July to 31 December 2009 (in that regard, see para. 65 above). Most role players were positive about the role the Management Evaluation Unit is playing in the new system of justice. Moreover, the concern that the Unit might contribute to delays in the new system has been allayed. The Unit appears to be working efficiently to review all administrative decisions referred to it.

X. Disciplinary matters

89. Disciplinary matters were raised with the Internal Justice Council as a cause for concern on numerous occasions by a number of different role players. While the Council is conscious that this might not strictly be within the matters upon which it is to report, it is nevertheless of the view that disciplinary proceedings raise issues affecting the proper functioning of the internal justice system that need to be addressed.

90. The Redesign Panel proposed that the Dispute Tribunal should have jurisdiction in four areas, the second being disciplinary matters (A/61/205, para. 77). The Panel noted that, with the abolition of the joint disciplinary committees, new procedures would be required for disciplinary matters; noting the anomalies that existed in the previous system, the Panel was of the view that disciplinary procedures should be brought into line with those in most national jurisdictions and most other international organizations (ibid., paras. 79-80). Thus, it proposed that, after consultation with the relevant standing panel on disciplinary matters, the executive heads of offices away from Headquarters and peacekeeping missions should have power to impose appropriate disciplinary measures. Staff members should then have the right to challenge the decision immediately before the Dispute Tribunal. It also proposed, consistently with the jurisprudence of the United Nations Administrative Tribunal, that management should bear the onus of establishing misconduct. The principle of delegating authority to impose disciplinary measures to senior officers away from Headquarters was endorsed by the General Assembly, and the Secretary-General was requested to present a detailed proposal regarding possible approaches to such delegation, including full delegation, as well as an assessment of possible implications for due process rights of staff members (resolution 62/228, para. 49).

91. In responding to that request, the Secretary-General outlined details for the delegation of authority, proposing that authority should be delegated only partially, and be limited to imposing minor sanctions and making other decisions during disciplinary proceedings, provided certain conditions were met; the delegation for more severe disciplinary measures would remain with the Under-Secretary-General

for Management. The conditions to be met included access to the Office of the Ombudsman at Headquarters or at the regional level; access to a fully operational Office of Staff Legal Assistance in the field and in offices away from Headquarters; outposting of legal officers from the Department of Management; training in the conduct of investigations, as well as the development of relevant manuals and standard operating procedures; completion of a comprehensive review of the recommendations for disciplinary action under the current system; and the issue of a revised administrative instruction; in completing these tasks, consultations with staff were to be conducted through the contact group on the administration of justice (A/63/314, paras. 22-25).

92. By resolution 63/253, paragraph 33, the General Assembly requested the Secretary-General to submit to it at its sixty-fifth session a new detailed proposal, including a variety of options for delegation of authority for disciplinary measures, with full costing and a cost-benefit analysis, taking into account the recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions (A/63/545).

93. Interviews conducted by the Internal Justice Council indicate that there are concerns with respect to disciplinary proceedings and delegation. Some of those interviewed indicated that the lack of guidance hinders them in dealing with matters properly. Staff expressed concerns about lack of due process and the entitlement of staff to legal advice only after an investigation has been conducted; in a number of cases cited, that was too late to ensure that staff were properly informed and that due process was observed. Training and development of appropriate investigation manuals and standard operating procedures were emphasized as crucial by both staff and management.

94. The Internal Justice Council is of the view that, since the proposed changes to disciplinary proceedings are an important part of the new internal justice system, it is highly desirable they be addressed as a matter of priority.

XI. Conclusion and recommendations

95. In conclusion, the Internal Justice Council is of the view that the new system is working as well as its resources allow and better than one could expect given that it has been operating only for a year. The success of the new system is largely due to the dedication of the judges, Registrars and their staff, the staff of the Office of Administration of Justice and lawyers from both the Office of Staff Legal Assistance and management who appear before the Tribunals. The Council commends all these role players for their hard work and commitment in the first year of the reformed internal justice system.

96. There are challenges remaining of course. The Internal Justice Council makes the recommendations which are summarized below to assist in addressing these challenges. The Council regrets that many of the recommendations will require some additional resources. In making these recommendations, the Council is acutely conscious of the financial constraints facing the General Assembly. It has therefore recommended only those things it consider essential for the effective functioning of the new system and wishes to assure the General Assembly that the recommendations have been made with a view to making the justice system put in

place by the Assembly an outstanding model of the regulation of management-staff relations in the international sphere.

97. The Internal Justice Council notes that, with the submission of this report, it has completed the three initial tasks allocated to it by resolution 62/228, and the first of the reports expressing its views on the implementation of the new internal justice system.

XII. Summary of recommendations

98. The Internal Justice Council recommends that:

A. Advertising, interviewing and recommending judges for appointment

1. It be made clear whether the reference to equivalency in the experience required for judicial posts relates to judicial experience or to administrative law (para. 16).

2. To attract a pool of outstanding candidates reflecting appropriate language and geographical diversity, Tribunal vacancies be widely advertised in appropriate journals in both English and French, and information relating to the judicial vacancies be disseminated to Chief Justices and to relevant associations, such as judges' professional associations (para. 17).

B. Tribunals

1. Three additional full-time judges be appointed to the Dispute Tribunal when the terms of the ad litem judges end (para. 21); and the current staff supporting the ad litem judge in each Dispute Tribunal location be regularized.

2. An additional half-time judge be appointed to the Dispute Tribunal, funding of half-time judicial positions be increased and the administrative procedure for appointing half-time judges be simplified (paras. 23, 24 and 26).

3. Provision be made for Dispute Tribunal judges and Registrars to hold two one-week plenary sessions per year (paras. 27 and 44).

4. To ensure institutional continuity, the three-year appointments of the judges of both the Dispute Tribunal and the Appeals Tribunal be extended to five years (para. 28).

5. The statutory requirement for the President of the Appeals Tribunal to approve three-judge panel hearings of the Dispute Tribunal be revised to allow determination of that need by the President of the Dispute Tribunal (para. 29).

6. Adequate provision be made for transcription, videoconferencing, interpretation, translation and acquisition of legal research resources (para. 30);

7. The President of the Dispute Tribunal be provided with administrative support (para. 31).

8. The Presidents of the Dispute Tribunal and the Appeals Tribunal be consulted by the Office of Administration of Justice on the budgets for their respective Tribunals (para. 48).

9. Provision be made for the Appeals Tribunal to hold three two-week sessions annually (para. 33).

10. The rates paid to the Appeals Tribunal judges be automatically pegged to those of the International Labour Organization Administrative Tribunal judges, unless the General Assembly decides otherwise (para. 34 (b)).

11. Appeals Tribunal judges and half-time judges of the Dispute Tribunal be paid a monthly stipend to adequately cover the costs of Internet connectivity, computer use and related administrative expenses (paras. 25 and 34 (c)).

12. The General Assembly invite Member States to review their rules relating to remuneration for national judges to enable national judges to receive remuneration if appointed to a recognized international tribunal (para. 34 (a)).

13. The General Assembly review the status of judges of the Appeals Tribunal so that they be accorded a high United Nations ranking, such as that of Assistant Secretary-General (para. 35).

14. The staffing complement of the Appeals Tribunal be increased in line with the original recommendations of the Redesign Panel and the Secretary-General (para. 37).

15. A new judicial oath of office be developed (para. 38).

16. The implications of the independent status of judges within the Organization be reconsidered and, in particular, the application to judges of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (ST/SGB/2002/9) be reconsidered (para. 39).

17. A judicial complaints mechanism be developed (para. 40).

18. A code of conduct for staff and management legal representatives be drafted (para. 41).

19. The principle of the binding nature of the orders of the Dispute Tribunal and the Appeals Tribunal be endorsed (para. 42).

20. Adequate resources be provided for travel for judges, Registrars and staff of the Office of Administration of Justice (paras. 43-44).

21. The General Assembly review the statutes of the Dispute Tribunal and the Appeals Tribunal and the general functioning of the internal justice system during the sixty-seventh session (para. 45).

C. Office of Administration of Justice

1. To maintain confidence in its independence, the Office of Administration of Justice to report directly to the General Assembly (para. 56).

2. Administrative support to the Office be increased (para. 58).

3. The post of Executive Director be reclassified in line with the original recommendation of the Secretary-General to the level of Assistant Secretary-General; and the post of the Special Assistant to the Executive Director also be reclassified (para. 57).

4. More extensive training of management personnel on the reform of the internal justice system be undertaken, particularly in duty stations away from Headquarters (para. 60).

D. Office of Staff Legal Assistance

1. Additional senior legal posts be established at Geneva, Nairobi and New York (para. 70).

2. A legal officer post be established at Entebbe or Nairobi or some other location with access to peacekeeping missions to provide assistance to peacekeeping missions; with a budget for travel to those missions (para. 73).

3. General Service administrative staff be provided for Addis Ababa, Beirut, Geneva and Nairobi and the new peacekeeping-related post (para. 71).

E. Internal Justice Council

1. Adequate resources be provided for two meetings per year (para. 76).

2. Adequate resources be provided for appropriate advertising and face-to-face interviewing when judicial vacancies arise (paras. 17 and 76).

F. Relationship between the formal and informal systems

1. Incentives to use informal dispute resolution mechanisms should focus on all employees of the United Nations; both staff and management should be strongly encouraged to use these mechanisms (para. 84).

2. More training on informal dispute resolution be provided for both staff and management (para. 84).

3. Management officials participating in mediation need to be appropriately authorized to reach agreed solutions (para. 85).

4. When a settlement is reached by an authorized management official, the Organization should guarantee payment of any settlement amount (para. 85).

5. When a staff member pursues informal dispute resolution, the time periods for seeking a management evaluation of a decision should be suspended (para. 87).

G. Disciplinary proceedings

Reforms proposed to the conduct of disciplinary matters be addressed as a matter of priority (para. 94).

(*Signed*) Kate **O'Regan**

(*Signed*) Sinha **Basnayake**

(*Signed*) Jenny **Clift**

(*Signed*) Geoffrey **Robertson**